

**Supporting Statement for  
Solid Minerals Compliance and Management Process  
(Form MMS-4430)  
(OMB Control Number 1010-0120)  
(Expiration Date: August 31, 2002)**

**A. Justification**

**1. What circumstances make this collection of information necessary?**

The Secretary of the Interior (Secretary) is responsible for royalty collection from leases producing minerals on leased Federal and Indian lands. The Secretary is required by various laws to manage the production of mineral resources on Indian lands and Federal onshore and offshore leases, to collect the royalties due, and to distribute the funds in accordance with those laws.

The Federal Oil and Gas Royalty Management Act (FOGRMA) of 1982, 30 U.S.C., 1701 et seq., states in Section 101(a) that the Secretary “. . . shall establish a comprehensive inspection, collection, and fiscal and production accounting and auditing system to provide the capability to accurately determine oil and gas royalties, interest, fines, penalties, fees, deposits, and other payments owed, and collect and account for such amounts in a timely manner.” The persons or entities described at 30 U.S.C. 1713 are required to make reports and provide reasonable information as defined by the Secretary. Additional applicable citations include 30 U.S.C. 189 pertaining to Public Lands, 30 U.S.C. 359 pertaining to Acquired Lands, 25 U.S.C. 396d pertaining to Indian Lands, and 43 U.S.C. 1334 pertaining to Outer Continental Shelf Lands (Attachment 1).

The Minerals Management Service (MMS) performs these royalty management functions for the Secretary. When a company or an individual enters into a contract or lease to develop, mine, and dispose of Federal or Indian minerals, that company or individual agrees to pay the appropriate royalty. Royalty rates are specified in the lease agreement. Many leases are subject to royalties computed as a percentage of gross proceeds, which is essentially based on monies realized through open market transactions. Other leases have fixed royalty rate per unit of production provisions. Also, some leases have non-standard, uniquely negotiated royalty terms affecting both the royalty rate and the methods used to value production from the lease. Most of these leases are Indian leases; however, uniquely negotiated Federal lease royalty terms also exist.

Specific lease language varies; however, respondents agree by the lease terms to furnish statements providing the details of all operations conducted on a lease and the quantity and quality of all production from the lease at such times and in such form as the Secretary may prescribe. Currently, rules require respondents to provide accurate, complete, and timely reports for all minerals produced, in the manner and form prescribed by MMS in 30 CFR Part 206, Subpart F; Part 210 Subpart E; Part 216, Subpart A; and Part 218 (Attachment 2).

In order to facilitate the collection of information listed above, for lessees not participating in the Solid Minerals Operational Model, MMS currently requires the submission of eight separate forms:

- Form MMS-4030, Payor Information Form (PIF), OMB Control Number 1010-0064. This form is used to establish and maintain the payor accounts required for processing Form MMS-2014, Report of Sales and Royalty Remittance
- Form MMS-2014, Report of Sales and Royalty Remittance, OMB Control Number 1010-0022. This form serves as the monthly report form on which payors report all royalty and lease-level transactions.
- Form MMS-4050, Mine Information Form (MIF), OMB Control Number 1010-0063. This form is used to establish and maintain mine-level production reporting.
- Form MMS-4051, Facility and Measurement Information Form (FMIF), OMB Control Number 1010-0063. This form is used to establish and maintain facilities in the volume-tracking system including identifying key sales/transfer measurement points that are required to track production and identify all secondary processing and remote storage facilities.
- Form MMS-4059-A, Solid Minerals Operations Report, Part A (SMOR-A), OMB Control Number 1010-0063. This form is used to identify, for a mine, the quantity and quality of all raw material produced from each Federal or Indian lease, specify the disposition of those raw materials including sales, transfers, and adjustments, and track raw material inventories.
- Form MMS-4059-B, Solid Minerals Operations Report, Part B (SMOR-B), OMB Control Number 1010-0063. This form is used to allocate sales from a secondary processing or remote storage facility back to individual Federal or Indian leases within a mine.
- Form MMS-4060-A, Solid Minerals Facility Report, Part A (SMFR-A), OMB Control Number 1010-0063. This form is used to provide detailed information on a secondary processing facility's inputs/outputs.
- Form MMS-4060-B, Solid Minerals Facility Report, Part B (SMFR-B), OMB Control Number 1010-0063. This form is used to show a secondary processing or remote storage facility's raw material receipts, production, inventory, and disposition.

Respondents are also required to resubmit modified (corrected or updated) data on an as-needed basis.

In April 1996, MMS undertook a compliance reengineering initiative to examine the current

compliance strategy and determine the best approach for the future. In April 1997, we decided to go beyond compliance reengineering and reengineer all of our core business processes. In November 1998, we decided to proceed with three operational models—Offshore, Onshore, and Solid Minerals. These models have been testing the reengineered business processes.

To test proposed reengineered business processes, the Solid Minerals Operational Model (Model) enlisted seven major coal-producing corporations that operated 19 coal mines that contain Federal and/or Indian leases. The Model also included a sand and gravel company operating two mines having Indian leases. We used the data reported from these mines to test the practicality, ease, and accuracy of new information collection reporting requirements. The Office of Management and Budget (OMB) approved our information collection request (ICR) to collect and test these new reporting formats and frequencies for the Model and assigned OMB Control Number 1010-0120).

The current information collection for the Model has several components:

- Form MMS-4430, Solid Minerals Production and Royalty Report (Attachment 3). This form filed monthly contains basic lease-level volume and valuation information presently collected on seven of the eight forms previously mentioned. Additionally, the form collects non-Federal production from the mine. Form MMS-4430 does not collect the information that is currently being collected on Form MMS-4060-A, Solid Minerals Facility Report, Part A (SMFR-A).
- Remote Storage and Washing Plant Data (Attachment 4). Companies participating in the Model suggested reporting this data to us by submitting internal company-generated reports that meet our minimum requirements. This data includes information from the existing Forms MMS-4060-A, Solid Minerals Facility Report, Part A (SMFR-A) and MMS-4060-B Solid Minerals Facility Report, Part B (SMFR-B).

#### Market Profile Data.

a. Coal contracts and contract amendments. Respondents submit copies of coal contracts and amendments to those contracts on a quarterly basis.

b. Coal sales summary data including purchaser, tons delivered per month, quality of delivered tons, and gross proceeds received each month. Companies participating in the Model suggested submitting company-generated spreadsheets containing MMS's minimum requirements (Attachment 5).

c. Legal Contingencies Questionnaire composed of six Yes/No questions. Although a reporting requirement of the Model ICR, we quickly determined this information was not

practical or necessary. We never requested this information during the Model. Therefore, we have eliminated this questionnaire.

Minerals produced from Federal and Indian leases vary greatly in the nature of occurrence, production and processing methods, and markets served. Also, lease terms, statutory requirements, and regulations vary significantly among the different solid minerals. We must exercise flexibility in the nature of data necessary to meet the reengineered compliance and management process strategy. Therefore, based upon our experience with the participants in the Model, MMS is now proposing to revise its solid minerals reporting regulations (Attachment 6) to extend the Model information collection requirements approved under OMB Control Number 1010-0120 to all solid minerals leases. The new reporting requirements will replace several existing information collection requirements and decrease the reporting burden for solid mineral lessees.

The new requirements will also improve MMS's ability to verify that revenue due the Government has been paid correctly under applicable laws, regulations, and lease terms. Therefore, beginning October 1, 2001, we will no longer require the solid mineral lessees to submit the eight forms required under the currently approved information collections (OMB Control Numbers 1010-0022, 1010-0063, and 1010-0064), but to submit only Form MMS-4430. For remote storage and washing plant data and market profile data, we will work with each company individually to identify the specific internal company-generated reports that each respondent will be required to submit.

(**Note:** We changed the title of this collection from Solid Minerals Operational Model to Solid Minerals Compliance and Asset Management Process.)

## **2. How, by whom, and for what purpose will the information be used?**

We will use the collected information to support MMS's compliance and asset management process. We will also provide the Bureau of Land Management (BLM) and the Bureau of Indian Affairs (BIA) access to this information, especially the facility data. They will use this data to conduct production verification, to assure lease diligence, and to monitor plant efficiencies, maximum recovery, and secondary product inventories. We will also make the facility data available on-line to all BIA, Tribes, and State audit offices for their mineral studies. We will use each element as follows:

### Form MMS-4430, Solid Minerals Production and Royalty Report

Distribution and Disbursement. We must match the royalty payment check or electronic funds transfer to Form MMS-4430, maintain lease accounts of payments, and ensure the distribution of data and disbursement of monies to our revenue recipients.

Allocating Production. Monitoring Federal lease and non-Federal lease production is essential for the compliance process to assure that commingled Federal and non-Federal mineral production is allocated properly back to the lease where the raw minerals were

mined.

BLM Production Verification and lease diligence requirements. We must make available production quantities, sales quantities, and inventory data to BLM. We will also provide production and sales data to BIA, Tribes, and State audit offices.

Compliance and Asset Management Processes. The Form MMS-4430 format is designed to give us the basic lease-level volume and valuation information to begin our compliance activities. We will compare this reported data with the Facility Data and the Contracts and Contract Amendments and Sales Summaries to identify and resolve value, volume, and royalty rate compliance issues.

#### Facility Data (Referred to as Remote Storage and Washing Plant Data in the Model ICR)

Allowance Monitoring. Under certain lease terms, lessees are permitted to deduct the cost of processing that enhances the value of the mineral production. Such costs must be monitored to assure that the allowance deductions are reasonable and consistent with regulatory standards.

Allocating Production. Monitoring raw production input and finished product output is essential for the compliance process to assure that commingled Federal and non-Federal mineral production is allocated properly back to the lease where the raw minerals were mined. Companies normally maintain electronic data files of this information in their business process. We will acquire the data from these company-maintained files and load it into our compliance data systems. This will minimize the information collection burden on industry respondents.

BLM Product Verification. BLM uses the data to verify production during regular inspections of facilities. They also use the data to assure lease diligence and to monitor plant efficiencies, maximum recovery, and secondary product inventories. We also make facility data available to all BIA, Tribes, and State audit offices for their mineral studies.

#### Contracts and Contract Amendments (a subset of the Market Profile Data in the Model ICR)

Identify Issues. Contracts are an integral part of the compliance and asset management process. Many issues related to value are identified in contracts. These issues may include sales to affiliated companies or may identify monies or other considerations that may be considered as payments for production.

Establish Selling Arrangements and Relationships. MMS will extract data that affect the royalty payment from the contracts and amendments submitted by respondents. For certain minerals, MMS will use these contracts to establish all sales arrangements and the relationships each contract has to the total mine production, sales, and subsequent royalty

payments.

Contract Database for Comparable Valuation. These contracts will also provide MMS a database of comparable contracts to establish valuation guidelines for similar coal sales agreements.

#### Sales Summary (a subset of the Market Profile Data in the Model ICR)

Purchaser Comparison to Form MMS-4430. Sales summaries provide MMS with information on purchasers of lease production. This information includes quality and quantities of production sold and total purchaser payments received by the producer. MMS's compliance process will compare Sales Summary information by purchaser to Form MMS-4430 and Facility Data.

#### Legal Contingencies Questionnaire

As mentioned, the Model quickly found this requirement was not practical or necessary. We never requested this information during the Model. Therefore, we have eliminated this requirement.

#### Additional Documents or Evidence

Federal and Indian lease terms allow us to request detailed statements, documents, or other evidence that supports our compliance asset management responsibilities. We will only request this additional information as we need it, not as a regular submission.

#### Method of Payment

Each payment document associated with Form MMS-4430 (Electronic Funds Transfer or hard copy check) must be annotated with the lessee's customer identification and the customer document identification numbers. For each rental payment document not reported on Form MMS-4430, the lessee must include the MMS Courtesy Notice, when provided, or annotate the payment document with the customer identification number and Government-assigned lease number. This requirement will help MMS link payments with Form MMS-4430 submittals.

These reporting requirements will alert us to possible compliance problems at the beginning of the audit process, thereby allowing us to provide resolution within 3 years. The current audit process identifies problems several years into the audit cycle, with problem resolution occurring several years after that.

### **3. Does the collection of information involve the use of information technology?**

We are developing software that will allow respondents to complete Form MMS-4430 and submit encrypted and authenticated reports to MMS over the Internet or by e-mail. All other data, including the Facility Data, Contract and subsequent amendments, and Sales Summaries may be submitted to MMS via attachments to e-mail messages. We will encourage companies to submit this data in electronic form to facilitate receipt and storage. However, we will allow hard copy submissions as well.

### **4. Is the information duplicated by any other Federal agency, and can similar information be used or modified for this collection?**

MMS and BLM have coordinated past efforts to identify information collected by either agency. In the course of the reengineering effort, several consultations were made with various BLM offices to ensure that a respondents reporting burden is minimized and not duplicated. The Solid Minerals Operational Model team has added a BLM representative to support our efforts in coordinating Department of the Interior data collection and to minimize or eliminate overlapping data collection of the same information.

Implementing the requirements of this ICR using Form MMS-4430, Facility Data, Contract and Contract Amendments, and Sales Summaries will result in this information continuing to be collected only by MMS. We will continue to make the data available to BLM offices for review.

### **5. What is the agency doing to minimize the burden on small business or other small entities?**

This revised information collection will impact small organizations. Using the experience gained through the Model, our reengineered initiative ensures that the information requested is the minimum necessary and places the least possible burden on industry. Respondents, including small businesses or other small entities, will have the flexibility to submit information to us via hard copy or electronic submissions. The implementation of Form MMS-4430 will reduce industry's reporting burden by reducing the number of forms that have to be submitted from eight individual forms submitted to one monthly report.

This summer we will hold several seminars giving firsthand explanations of the revised reporting requirements and will also show how to report this information to MMS. We will encourage all solid mineral lessees to attend one of these seminars to better familiarize themselves with the revised reporting requirements so they will be prepared to meet the implementation of these requirements on October 1, 2001.

We will meet with business's information technology (IT) staffs to assist us in setting up hardware and software configuration. We will provide the necessary electronic reporting software that will interface with our financial and production application systems. We will also cover the cost associated with the development and implementation of the reporting software. We will provide any initial software formatting or other assistance needed to get a company started.

**6. Are there any technical or legal obstacles to reducing the burden? What are the consequences to the Federal program if the collection is not collected or is collected less frequently?**

Necessity of Information Collection

From the Model, we determined the necessary level of detail required to meet the reengineered solid mineral compliance goals. The Form MMS-4430 format is the cornerstone of reengineered solid minerals reporting. It replaces Form MMS-2014, Report of Sales and Royalty Remittance. It allows us to fulfill our mission to collect, verify, and distribute, in a timely fashion, mineral revenues generated from solid minerals located on Federal and Indian lands. Monthly submission coincides with industry's normal business practices.

The collection of Facility Data, Contracts and Contract Amendments, and Sales Summaries from respondents is necessary for our reengineered compliance strategy. Through analysis of this information, we can determine whether the products are being valued properly for royalty purposes. Particularly of interest to us are provisions for compensation that might be overlooked as a portion of gross proceeds. Without the ability to review this information, we will not be able to assure proper product valuation.

Reengineered Compliance Strategy

MMS's reengineered compliance strategy calls for completion of all compliance activities, including audits, as soon as possible, not to exceed 3 years from the date the royalty payment was made or the payment was due, whichever is sooner. This information collection allows us to carry out compliance activities timely to meet this goal.

Solid Minerals Compliance Strategy

The solid minerals compliance strategy is premised on the creation of property expert teams that will have end-to-end compliance responsibility for the leases they are responsible for. Compliance must be achieved within 3 years from the date the royalty payment was received or due, whichever is sooner. Property expertise rests on the premise of receiving relevant data in a timely manner. In other words, compliance issues cannot be resolved in contemporaneous



fashion unless the issues are identified early in the royalty cycle. Data supplied under the reengineered compliance strategy is principally market and contract data. Most valuation issues stem from the lessee's business activities with its customers.

Royalty valuation issues may include, but are not limited to, the sale of production to affiliated companies, improper deductions from proceeds received by the lessee, and other issues such as reviewing compensation received by the lessee for a wide variety of reasons, including, for example, breach of contract. Lessees cannot be expected to know which business arrangements or other activities represent royalty issues to MMS. Therefore, MMS must tie into the lessee's business arrangements and evaluate those arrangements as part of its compliance activities. MMS will use the sales contract and other market data to establish an expected basis for evaluation of the reasonableness of the reported royalty payment.

It is through this process of establishing expected payments versus actual payments and the supporting reported data that the property experts will target royalty exceptions for resolution. Hence, without the required data flow, MMS cannot engage the company contemporaneously and timely resolve issues within the 3-year compliance time period. Instead, companies would necessarily be required to hold data for extended periods of time.

During the Model time period, companies that partnered with MMS stated that benefits accrue to them as well as MMS due to a shortened compliance time period. Businesses agreed that records necessary to resolve compliance issues identified in the near term are more easily recovered. Moreover, personnel associated with the business arrangement that is in the review are likely to still be in the employ of the company. Finally, if the issue were resolved in the Government's favor, less late-payment interest would be due the Government.

If the required data necessary to support the reengineered compliance process were not provided, MMS would resort to available published data. Published data often represents the consensus of private surveys and other statistical data, some of which is conducted by other governmental agencies such as the U.S. Geological Survey or the Federal Energy Regulatory Commission. However, using these alternative sources of data would ultimately place an additional burden on industry for several reasons.

Any value reported for royalty purposes that differ from the published price survey would need to be resolved. Resolution of pricing issues requires contracts and sales data (invoices, etc.). The likelihood of a variance occurring is great, since the published data is the average of many sales by many producers to many customers. The lessee may be selling at less than the average price for any number of legitimate business reasons, such as increasing market share, or growing the market against other similar or substitutable products, such as substituting coal for gas. Companies also price their production differently depending on customer purchases (volume discounts), most favored nations pricing clauses and so forth. These many diverse marketing practices cannot be reflected in published price surveys.

Accordingly, MMS believes numerous spurious royalty exceptions would require resolution due to the use of published or publicly available data. The Model experience clearly shows that by accessing the company's sales and contract data directly, less time will be spent by both MMS and the company achieving the compressed royalty compliance time frame.

**7. Are there any special circumstances that require exceptions to 5 CFR 1320.5(d)(2)?**

Most leases require that the respondent or operator submit monthly royalty and production reports. Respondents are required by 30 CFR 212.200 to maintain records for 6 years or for longer periods if notified in writing. When an audit or investigation is underway, records must be maintained until released by written notice. Also, respondents will be required to provide confidential/proprietary information to us under the provisions of Form MMS-4430; the Facility Data; Contract and Subsequent Amendments, and Sales Summaries. Standard Agency procedures provide strict security measures to control the use, storage, and access to such information.

**8. What efforts did the agency make to consult with the public and a representative sample of respondents?**

On August 3, 2000, we published a Federal Register Notice (65 FR 47802) (Attachment 7), soliciting comments on revising the Solid Minerals Operational Model ICR. We received comments from two organizations. One from an industry partner in the Model and one from an association of coal metal and non-metal minerals as well as manufacturers of mining and processing equipment and engineering, consulting and financial institution serving the industry.

**Comment.** Both commenters expressed support for Form MMS-4430 for the following reasons:

- Approval of design to collect the appropriate information at the appropriate time from solid mineral lessees.
- Approval of replacement of eight separate forms that are currently required to be filed.
- Approval of the allowance for the net reporting of prior period adjustments. The Solid Minerals Operational Model team estimates that this reporting enhancement will reduce the lessee's reporting burden approximately 40 percent.
- Approval of the design allocating prior period adjustments to the appropriate Federal lease when production occurs from multiple Federal leases and/or State and private leases and fee property

**Response.** We appreciate their expressions of support.

**Comment.** Both commenters expressed concern that the Federal Register Notice published on August 3, 2000, did not adequately explain the revisions we were planning to make to an

approved ICR that we had been using with the Model. They also commented that the supporting statement furnished upon request did not include attachments referenced in that statement.

**Response.** The intent of our Federal Register Notice was to notify the public that we planned to revise the approved ICR that the Model participants have been using. We indicated that we were proposing to expand this collection to all solid mineral lessees, and we sought input to that extent.

We acknowledge that we should have explained in more detail in the Federal Register the extent of the revisions. However, we did provide, upon request, copies of the supporting statement from the last ICR, which provided a more detailed explanation of the reporting requirements. This ICR includes attachments that identify the reporting requirements we will accept comment on and should help the public to better understand what information should be submitted to MMS.

**Comment.** MMS failed to meet the standard established by 5 CFR 1320.8(b).

**Response.** MMS did not fail to meet the standards established by 5 CFR 1320.8(b). This information is supposed to be shown on the information collection instrument or form. MMS included this information on Form MMS-4430 in the Paperwork Reduction Act statement at the bottom of the form.

**Comment.** Reporting of non-Federal production is not adequately explained.

**Response.** We have included a clearer explanation of non-Federal production (see Items 1 and 2).

**Comment.** Contracts are highly confidential proprietary information, and if a compelling reason exists to collect these documents, clear and enforceable confidentiality protocols must be provided.

**Response.** Reasons for collecting contracts and contract amendments are addressed in Item 2. Confidentiality is addressed in Item 10.

**Comment.** The description of the legal contingency questionnaire referenced in the supporting statement is nonexistent.

**Response.** The legal contingency questionnaire was approved under the original ICR. However, this information was never requested. Therefore, we have eliminated this requirement.

Our major effort to consult with a representative sample of our reporters has been through the Model. The Model enlisted seven major coal-producing corporations that operated 19 coal mines that contain Federal and/or Indian leases. The Model also included a sand and gravel

company operating two mines having Indian leases. We used the data reported from these mines to test the practicality, ease, and accuracy of the new reporting requirements.

We are working with the Royalty Policy Committee's (RPC) Coal Subcommittee, which is comprised of representatives from industry, States, Tribes, and the public. We have provided periodic updates to the Coal Subcommittee throughout our reengineering efforts. Each of the Model respondents is a member on this subcommittee.

In addition to the experience gained through the Model, we continue to consult with other solid mineral lessees. Our past consultations include:

- On July 14, 1999, we met with five Model companies to discuss progress on the information collection.
- On August 9, 1999, we held discussions with five Model companies regarding the proposed legal contingency questionnaire.
- In an effort to gain experience with non-coal production under the reengineered compliance strategy, we met on October 1999 with a sodium producer to discuss the possibility of joining the Model.
- In April 2000, we recruited a sand and gravel producer to join the Model.
- On July 11, 2000, we met with seven companies to discuss extending the Model information collection requirements to all solid minerals lessees.
- Each respondent was issued a confirmation letter establishing responsibilities, actions, and tasks required.
- A Federal Register Notice (64 FR 3968) was published on January 26, 1999. This Notice solicited comments from the public and industry on the Model and requested an extension of OMB's approval to continue to collect this information for another 3 years. No comments were received.

We continue to meet with respondents, collectively and individually, to discuss requirements and implementation strategies and continue consultation with the RPC Coal Subcommittee during all scheduled meetings.

We conducted the Model to test our reengineered reporting formats. During the Model, we questioned whether these formats were our best option. Several of the Model participants responded with letters supporting Form MMS-4430. Reasons for their support are contained in several letters to MMS:

- § Form MMS-4430 is designed to collect the appropriate information at the appropriate time from solid mineral lessees.
- § Form MMS-4430 replaces eight separate forms that companies are currently required to file.
- § Form MMS-4430 allows for the net reporting of prior period adjustments. The Solid Minerals Operational Model team estimates that this reporting enhancement will reduce the lessee's reporting burden by approximately 40 percent.
- § Form MMS-4430, as presently designed, provides automated functions to reduce lessee burden and, at the same time, enhance the accuracy of the submitted report. We will populate static (certain data are considered "static" or unchanging such as lease serial number) fields on Form MMS-4430. We will also enhance the submission process by including basic arithmetic functions, built-in form integrity checks to avoid sending a report with errors, and other electronic tools. One such tool is an allocation tool, which may be used to proportion monies equitably across the various leases (Federal, Indian, and all other) that commonly make up the mine.

On June 5, 2001, we published a proposed rule in the Federal Register (66 FR 30121) (Attachment 8), titled "Solid Minerals Reporting Requirements." The 30-day comment period closed July 5, 2001. In the proposed rule, we solicited comments on this information collection. Eight respondents commented on the proposed rule. Responses to those comments will be published in the final rule expected to be published by September 1, 2001. Two companies commented on this information collection. Those comments and our responses follow:

**Comment:** Both companies support the proposed Form MMS-4430 and the proposed Internet submission. Both agreed that the replacement of eight reporting forms by Form MMS-4430 simplifies reporting.

**Response:** We appreciate the support for Form MS-4430. We reiterate here that this form is but one integral piece of information we propose to collect to perform our contemporaneous compliance and asset management process under our reengineered compliance strategy. This form alone does not provide the data necessary to achieve our compliance performance goal.

**Comment:** Both companies expressed concern that the proposed rule significantly changes the current rules and goes beyond lease term requirements. They note the proposed rule changes submission requirements from Upon request to a Required concept. They also note lease terms only require submission of information and documents that are reasonably necessary to verify lease compliance with terms and conditions of the lease.

**Response:** Current reporting requirements require the submission of up to eight forms. The proposed new reporting requirements include information currently collected on those eight

forms. The major difference is that instead of submitting the information on a standard form, companies can submit the information in the format they prepare for their own internal use. Currently, we require contract submission during audit. Our reengineered compliance strategy requires collection of contracts earlier in our compliance process. The burden of contract submission is not a new requirement but merely a change in the timing of submissions.

Our reengineered compliance strategy requires the submission of all documents in this proposed information collection. We believe this is the minimum information reasonably necessary to support our contemporaneous compliance program and verify compliance with lease terms and conditions.

**Comment:** Both respondents believe the estimated burden for the collection of sales summaries is underestimated. One of the respondents believes the monthly inclusion of costs related to processing and transportation costs, which are currently calculated annually, will increase the burden significantly.

**Response:** Lessees may report allowances on the sales summary using either actual costs, if known, or estimated costs. If the lessee reports estimated costs on the sales summary, then he must true-up the claimed allowances on Form MMS-4430 when actual costs become available. Allowances (cost data) reported on the sales summary do not require true-up. In any event, coal allowances claimed on Form MMS-4430 must be calculated in accordance with 30 CFR ' ' 206.259 and 206.262. Allowances claimed for non-coal solid minerals must reflect actual, reasonable costs. All allowances claimed on Form MMS-4430 are subject to review, audit, and adjustment.

We clarified this issue in the preamble to the final rule. We also reduced or deleted the requirement to submit coal size, clarified the need to submit summaries in months when no Federal or Indian production or sales occurs, and clarified when to submit summaries for facilities. In view of these changes, we believe our estimated burden is reasonable.

**Comment:** Both respondents believe the estimated burden for contract submissions is underestimated.

**Response:** We believe much of the concern regarding contract reporting burdens stems from ambiguity in the proposed rule. To clarify our intent, we have added language to the final rule (1) explaining that a multi-period contract does not need to be submitted more than once; (2) requesting Aother documents affecting gross proceeds@ on an as-needed basis; and (3) changing the contract submission frequency from quarterly to semi-annually. These three changes mitigate the lessee=s reporting burden. However, we recognize that contract submission, even on a semi-annual basis, may take longer than originally estimated to account for the lessee=s need to index all its contracts, and agree with the commenters that we underestimated the time that will be necessary for contract submission. Therefore, the estimated annual burden associated with contract submission has been increased from 90 hours to 180 hours.

We note that the overall reporting burden for contract submission would likely be the same regardless of whether the contracts are submitted semi-annually or during audit. Because semi-annual submission is more contemporaneous, we believe it will require less effort over time than searching for and retrieving multiple contracts during audit.

**9. Will payment or gifts be provided to respondents?**

No payment or gifts will be provided to respondents.

**10. What assurance of confidentiality is provided to respondents?**

Commercial or financial information submitted to MMS and related to minerals removed from Federal leases may be proprietary. Trade secrets and proprietary information is protected in accordance with standards established by the Freedom of Information Act (5 U.S.C. 552 (b)(4)) and Department of the Interior regulations (43 CFR 2). The Indian Minerals Development Act of 1982 (IMDA) (25 U.S.C. 2103) provides that all information related to any Indian minerals agreement covered by IMDA shall be held by the Department as privileged proprietary information. Storage of such information and access to it is controlled by strict security measures. All information submitted via e-mail will be encrypted.

**11. Does the information collected include any questions of a sensitive nature?**

The information collected does not include any questions of a sensitive nature.

**12. What is the estimated reporting and recordkeeping “hour” burden of the collection of information?**

MMS estimates that there are approximately 200 respondents. The frequency of response varies by section. We estimate the annual burden is 1,452 hours. Based on \$50 per hour, the hour burden cost to respondents is \$72,600. Refer to the chart following Section B for the breakdown of the burden hours.

**13. What is the estimated reporting and recordkeeping “non-hour” cost burden of the collection of information?**

Submitting this information to us will not require an initial capital cost by the respondent. We will meet with each lessee’s IT staffs to coordinate computer-related issues with the implementation of this information collection and to assist us in developing software requirements and describing the company’s hardware and software configuration. We will provide the necessary electronic reporting software interface with our financial and production application systems for the companies to submit the required information. We will also cover the cost associated with the development and implementation of the reporting software. The required report formats can be created and submitted using off-the-shelf software packages. We will provide any initial software formatting or other assistance needed to get a company started.

**14. What is the estimated annualized cost to the Federal Government?**

MMS's Solid Minerals and Geothermal Compliance and Asset Management group employs 23 full-time employees. They will collect, analyze, and resolve compliance issues using end-to-end processes, which will eliminate hand-offs that would otherwise occur between functionally aligned units. Under the end-to-end compliance and asset management process, MMS's Solid Minerals and Geothermal Compliance and Asset Management team members will perform reporting and compliance work in a fully integrated process. Therefore, the activity of collecting and analyzing reported data is, at the same time, the commencement of compliance work. A clear distinction between these individual elements of an integrated workflow is unknown. We estimate that these employees will spend 10 percent of their time collecting and analyzing these reports or 4,784 hours (2,080 hours per year x 23 employees x 1 year x 10%). Using \$50 per hour, our cost is \$239,200.

MMS is building a computer platform and associated database as the host for data collected. This computer platform, and associated cost to MMS, will involve data from the Onshore, Offshore, and Solid Minerals Operational Models and all exception processing and compliance activity. We estimate this cost at \$891,000 over 2 fiscal years.

**15. Are there any program changes or adjustments requested in Sections 13 or 14 of the Form OMB 83-I?**

In Item 13 of Form OMB 83-I, the burden hours are increased from 463 hours to 1,452 hours. This increase (program change) is due to expanding the respondent universe to include all solid minerals lessees and the additional reporting requirements associated with the proposed rulemaking. However, the new Form MMS-4430 replaces eight existing forms, which total 4,820 burden hours, as explained in Item 1. Therefore, there will also be a net reduction (program change) of 3,368 burden hours once OMB approves this form.

**16. Are there plans for tabulation and publication of the results of the information collection?**

MMS publishes aggregated production and royalty data periodically, for the benefit of the public, industry, States and Indians, and other interested parties. No sensitive, confidential, or proprietary data are released. The publication of aggregated data will continue.

**17. Is the agency seeking approval to not display the expiration date for OMB approval of the information collection?**

The expiration date for OMB approval will be displayed on Form MMS-4430.

**18. Are there any exceptions to the certification statement in Item 19 of Form OMB 83-I?**



Collection of this information complies with Item 19, "Certification for Paperwork Reduction Act Submissions" on Form OMB 83-I.

**B. Collections of Information Employing Statistical Methods**

This section is not applicable. We will not employ statistical methods in this information collection

### Section A.12 Burden Hour Breakdown

<b>Citation 30 CFR 210 and 218</b>	<b>Reporting or Recordkeeping Requirement</b>	<b>Requirement Hour Burden</b>	<b>Average Annual Number</b>	<b>Annual Burden Hours</b>
210.201	Submit Form MMS-4430 for coal and other solid minerals produced from Federal and Indian leases	20 minutes	2,400	800
210.202	Submit sales summaries for all coal and other solid minerals produces from Federal and Indian leases.	15 minutes	1,440	360
210.203	Submit sales contracts, agreements, and contract amendments for the sale of coal and other solid minerals.	1 hour	180	180
210.204	Submit facility data for all production processed in the facility.	15 minutes	360	90
210.205	Submit documents, or other evidence that may be requested.	1 hour	20	20
218.201(b) and (c)	Method of payment—Include customer identification number and government-assigned lease number on payment documents.	20 seconds	1,095	2
<b>Total Hour Burden</b>			<b>5,495</b>	<b>1,452</b>